



## Legislation Details (With Text)

**File #:** 20-0577      **Version:** 1      **Name:** Quality Carriers vs. City of Newark Planning Board, et als.

**Type:** Resolution      **Status:** Adopted

**File created:** 5/11/2020      **In control:** Law

**On agenda:** 6/24/2020      **Final action:** 6/24/2020

**Title:** Dept/ Agency: Law  
Action: ( ) Ratifying (X) Authorizing ( ) Amending  
Purpose: Settlement of Civil Litigation  
Docket No.: BER-L-005119-18  
Claimant: 125 Doremus Avenue, LLC, Jans Realty Urban Renewal, LLC, and Quality Carriers, Inc. v. Central Planning Board of the City of Newark, the Municipal Council of the City of Newark and the City of Newark  
Claimant's Attorney: Randy T. Pearce, Esq.  
Attorney's Address: Pearce Law, LLC, 25 Main Street, Suite 602, Hackensack, New Jersey 07601  
Settlement Amount: N/A  
Funding Source: N/A  
Account Code Line:  
Additional Comments:

**Sponsors:** Council of the Whole

### Indexes:

### Code sections:

| Date      | Ver. | Action By         | Action | Result |
|-----------|------|-------------------|--------|--------|
| 6/24/2020 | 1    | Municipal Council | Adopt  | Pass   |

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**Additional Comments:**

**WHEREAS**, the Municipal Council adopted Resolution 7R2-a, which authorized the Central Planning Board to conduct a preliminary investigation of a designated Study Area located at Doremus Avenue ("Study Area") to determine whether those certain properties located within the Study Area qualify as a "Condemnation Redevelopment Area" pursuant to the Local Redevelopment and Housing Law,

N.J.S.A. 40A:12A-1 et seq. (“LRHL”); and

**WHEREAS**, Quality Carriers, Inc., is the owner of real property known as 20-84 Doremus Avenue, Newark, New Jersey 07105 more formally known as Block 5011, Lot 1 (the “Property”); and

**WHEREAS**, the Property was included within the Study Area; and

**WHEREAS**, Topology NJ, LLC, (“Topology”) in cooperation with the City of Newark and the Newark Community Economic Development Corporation (presently known as “Invest Newark”), conducted a preliminary investigation to determine whether the designation of the Study Area as an area in need of redevelopment is appropriate and in conformance with the statutory criteria set forth in N.J.S.A. 40A:12A-5; and

**WHEREAS**, on November 20, 2017, and continuing on December 18, 2017, January 8, 2018, January 29, 2018, and March 5, 2018, the Newark Central Planning Board (the “Board”) conducted public hearings; and

**WHEREAS**, on March 5, 2018, the Board voted to recommend that the Study Area be designated by the Municipal Council as an “area in need of redevelopment” with condemnation rights; and

**WHEREAS**, by Resolution, dated April 23, 2018, the Board memorialized its decision to recommend that the Study Area be designated as an “Condemnation Redevelopment Area”; and

**WHEREAS**, on June 7, 2018, the Municipal Council adopted Resolution 7R2-d(S), as amended, determining that the Property, among others, qualifies as a “Condemnation Redevelopment Area” pursuant to the LRHL; and

**WHEREAS**, upon further review of Resolution 7R2-d(S), the Municipal Council adopted Resolution 7R2-a, adopted on January 23, 2019, as amended, determining that the Property, among others, qualifies as a Condemnation Redevelopment Area” pursuant to the LRHL; and

**WHEREAS**, on July 23, 2018, Quality Carrier, Inc., filed a Complaint Action in Lieu of Prerogative Writs in the Superior Court of New Jersey, Law Division, entitled 125 Doremus Avenue, LLC, Jans Realty Urban Renewal, LLC, and Quality Carriers, Inc. v. Central Planning Board of the City of Newark, the Municipal Council of the City of Newark, and the City of Newark, Docket No. BER-L-005119-18, challenging the Board’s recommendation and the Municipal Council’s subsequent determination that the Property qualifies as a Condemnation Redevelopment Area, pursuant to the LRHL (“Quality Carriers, Inc, Litigation”); and

**WHEREAS**, the Parties have now reached a settlement of this dispute in order to avoid costly litigation expenses; and

**WHEREAS**, this Settlement Agreement and General Release neither admits nor should it be construed as an admission of liability or violation of any law, statute or regulation or a breach of any duty by the City of Newark, its agents, officers and/or employees whatsoever and is entered into to resolve this matter and prevent the incurring of additional costs and fees; and

**WHEREAS**, the City of Newark has determined that it is in the best interest of the taxpayers to settle and avoid the cost, expense, delay and uncertainty of litigation; and

**WHEREAS**, the terms of the settlement are set forth in the Settlement Agreement and General Release and does not include any monetary payment on the part of the City of Newark to the Plaintiff.

**NOW THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Mayor and/or his designee, the Corporation Counsel, is authorized, on behalf of the City of Newark to negotiate and execute a Settlement Agreement and Release, and any other documents, sufficient in form and content to the Corporation Counsel and to take whatever actions are necessary to effectuate the terms and resolve the matter entitled *125 Doremus Avenue, LLC, Jans Realty Urban Renewal, LLC, and Quality Carriers, Inc., v. Central Planning Board of the City of Newark, the Municipal Council of the City of Newark, and the City of Newark*, Docket No. BER-L-005119-18f pursuant to the terms contained in within this resolution.

2. The Municipal Council authorizes the City of Newark to de-designate the Property and remove same from the Condemnation Redevelopment Area as set forth in Resolution 7R2-a, as amended, on January 23, 2019. In order to effectuate same, a resolution amending Resolution 7R2-a January 23, 2019, as amended, shall specifically remove the Property from the Condemnation Redevelopment Area.

3. In exchange for the execution by Quality Carriers, Inc., of the Settlement Agreement and Release, acceptable in the form to the Corporation Counsel and after passage of this resolution and upon receipt by the Corporation Counsel, the City Defendants agree that they will not take any action whatsoever to designate the Property as an Area in Need of Redevelopment for a period of two (2) years from the date of the adopted resolution and within seven (7) calendar days of Quality Carriers, Inc., receipt of the certified copy of the adopted resolution, Quality Carriers, Inc., will dismiss the Quality Carriers, Inc., Litigation, without prejudice and without costs, by filing a Stipulation of Dismissal without Prejudice.

4. Upon the passage of forty-five (45) days of the adoption of the resolution and there have been no legal challenges filed with the court contesting the legality of said resolution, Quality Carriers, Inc., will dismiss the Quality Carriers, Inc., Litigation, with prejudice and without costs, by filing a Stipulation of Dismissal with Prejudice within seven (7) calendar days of the expiration of the forty-five (45) day period.

5. The settlement and resolution does not admit nor should it be construed as an admission of liability or violation of any law, statute or regulation or a breach of any duty by the City of Newark, its agents, officers and/or employees whatsoever and is entered into based upon recommendations of the Corporation Counsel and to eliminate all risks and future litigation costs.

6. The Corporation Counsel shall file a fully executed copy of the Settlement Agreement and Release in the Office of the City Clerk.

7. This resolution shall be effective upon adoption in accordance with applicable laws of

the State of New Jersey.

### **STATEMENT**

This resolution authorizes the Corporation Counsel on behalf of the City of Newark to resolve the pending matter entitled 125 Doremus Avenue, LLC, Jans Realty Urban Renewal, LLC, and Quality Carriers, Inc., v. Central Planning Board of the City of Newark, the Municipal Council of the City of Newark, and the City of Newark, Docket No. BER-L-005119-18 by executing the Settlement Agreement and General Release. This resolution does not include any monetary payment on the part of the City of Newark to the Plaintiff.